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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BJ03

Fisheries of the Exclusive Economic Zone Off Alaska; Rockfish Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands and the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council has submitted Amendment 119 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 107 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) (collectively Amendments 119/107) to the Secretary of Commerce (Secretary) for review. If approved, Amendments 119/107 would require that the operator of a catcher vessel required to have a federal fishery permit using hook-and-line, pot, or jig in the EEZ of the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) to retain and land all rockfish (*Sebastes* and *Sebastolobus species*) caught while fishing for groundfish or for Pacific halibut and establish a limit on the amount of rockfish caught as incidental catch allowed to enter commerce through barter, sale or trade. Amendments 119/107 are necessary to improve identification of rockfish species, improve data collection by

providing more accurate estimates of total catch, reduce incentives to discard rockfish, reduce waste, reduce overall enforcement burden, and provide regulatory consistency. Amendments 119/107 are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the BSAI FMP, the GOA FMP, and other applicable laws.

DATES: Comments must be received no later than [*INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2019-0068, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0068, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 119 to the BSAI FMP, Amendment 107 to the GOA FMP, the Regulatory Impact Review (RIR; referred to as the “Analysis”) and the draft National Environmental Policy Act (NEPA) Categorical Exclusion may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, (907) 586-7228.

SUPPLEMENTARY INFORMATION:

The Magnuson-Stevens Fishery and Conservation Act (Magnuson-Stevens Act) in section 304(a) and 305(d) requires that each regional fishery management council submit an amendment to a fishery management plan for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act in section 304(a) also requires that the Secretary, upon receiving an amendment to a fishery management plan, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. The North Pacific Fishery Management Council (Council) has submitted Amendments 119/107 to the Secretary for review. This notice announces that proposed Amendments 119/107 to the FMPs are available for public review and comment.

In April 2019, the Council adopted Amendment 119/107 to the BSAI FMP and GOA FMP, respectively, which would require full retention of rockfish by CVs required to have a federal fishery permit using hook-and-line, pot, or jig gear in the BSAI and GOA groundfish and Individual Fishing Quota (IFQ) / Community Development Quota (CDQ) halibut fisheries even if NMFS prohibits retention of a rockfish species. If approved, Amendments 119/107 would also establish a limit on the amount of rockfish caught as incidental catch allowed to enter commerce through barter, sale, or trade. There is a need to establish such a limit or allowance that both

provides an incentive for vessel operators to retain all rockfish and avoids elevated rates of rockfish incidental catch because rockfish maximum retainable amounts (MRA) would not apply under the proposed full retention requirement. This limit is called the maximum commerce allowance (MCA). The MCA would be calculated at each rockfish landing, and would limit the amount of rockfish allowed to enter commerce. The MCA for rockfish would be calculated as a percentage of the total retained groundfish and halibut landed during each delivery.

Amendment 119 would amend two sections of the BSAI FMP. First, in Table ES-2 in the Executive Summary, row “Retention and Utilization Requirements” would have a sentence added to read, “Rockfish: Catcher vessels using hook-and-line, pot, or jig gear must retain and land all rockfish.”

Second, a new BSAI FMP Section “3.6.3.3 Full Rockfish Retention by Catcher Vessels using Hook-and-Line, Pot, or Jig Gear” would have a sentence added to read that “The operator of a catcher vessel required to have a federal fishery permit using hook-and-line, pot, or jig gear and participating in groundfish or halibut fisheries in the EEZ of the BSAI must retain and land all rockfish.” A second sentence would be added to read, “Maximum Commerce Allowance for Rockfish. A vessel operator may sell, barter, or trade a round weight equivalent amount of rockfish that is less than or equal to the maximum commerce allowance established in regulations. The MCA is calculated as a percent of the aggregate round weight equivalent of halibut and groundfish species, other than rockfish, that are landed during the same fishing trip.”

Amendment 107 to the GOA FMP would amend two sections of the GOA FMP. First, Table ES-2 in the Executive Summary, row “Retention and Utilization Requirements” would

have a sentence added to read, “Rockfish: Catcher vessels using hook-and-line, pot, or jig gear must retain and land all rockfish.”

Second, a new GOA FMP Section “3.6.3.3 Full Rockfish Retention by Catcher Vessels using Hook-and-Line, Pot, or Jig Gear” would have a sentence added to read “The operator of a catcher vessel required to have a federal fishery permit using hook-and-line, pot, or jig gear and participating in groundfish or halibut fisheries in the EEZ of the GOA must retain and land all rockfish.” A second sentence would be added to read, “Maximum Commerce Allowance for Rockfish. A vessel operator may sell, barter, or trade a round weight equivalent amount of rockfish that is less than or equal to the maximum commerce allowance established in regulations. The MCA is calculated as a percent of the aggregate round weight equivalent of IFQ halibut and groundfish species, other than rockfish, that are landed during the same fishing trip.”

Background

Rockfish are commercially important groundfish comprising 29 commonly caught species. Most of these species inhabit rocky areas in shallow to moderately deep waters that overlap with groundfish and halibut fisheries. Many rockfish species are sought for their commercial value. Except for thornyhead rockfish (*Sebastes* spp.), rockfish have a closed swim bladder, which regulates buoyancy. Quick changes in pressure that occur when rockfish are caught and brought to the surface damage internal organs, therefore rockfish are susceptible to high mortality when brought to the surface from depth. Virtually no rockfish survive once caught without using special handling procedures to return the rockfish to depth as soon as possible.

Many rockfish species are commonly caught as incidental catch by vessels directed fishing for other species using hook-and-line, pot, or jig gear. NMFS prohibits directed fishing for most rockfish species at the beginning of the year because the amount of the total allowable catch (TAC) for rockfish species or species groups do not support directed fishing. If a TAC is reached, NMFS prohibits retention of the species.

Since directed fishing by CVs using hook-and-line, pot, or jig gear is already prohibited for nearly all species of rockfish, NMFS limits retention through the MRA as the primary tool to regulate rockfish catch. The MRA is the proportion or percentage of retained catch of a species closed to directed fishing (incidental catch species) to the retained catch of a species open for directed fishing (basis species). When NMFS prohibits directed fishing for a groundfish species, retention of the catch of that species is allowed up to an MRA based on percentages set forth in Table 10 and Table 11 to 50 CFR part 679. Section 679.20(d)(iii)(B) requires vessel operators to discard at sea any rockfish that exceeds the MRA. For the individual fishing quota (IFQ) halibut and IFQ sablefish fisheries, when IFQ halibut or IFQ sablefish is on board, retention of rockfish is already mandatory unless rockfish are required to be discarded because catch is in excess of the MRA or the rockfish is in prohibited species status (§ 679.7(f)(8)).

Full Retention

Since the majority of rockfish do not survive being caught, discards of rockfish increases waste. Rockfish must be discarded for two reasons: 1) when rockfish catch is in excess of an MRA; and 2) when a rockfish species is prohibited from being retained (in a prohibited species status). Amendments 119/107 would require full retention of all rockfish that are caught by CVs

using hook-and-line, pot, or jig gear and remove the requirements for catcher vessels using hook-and-line, pot, or jig gear to discard rockfish.

The Council recommended, and NMFS proposes, requiring full retention of all rockfish caught by CVs required to have a federal fishery permit using hook-and-line, pot, or jig gear targeting groundfish and halibut in the GOA and BSAI for a number of reasons. These reasons include 1) improving the identification of rockfish species catch by vessels using electronic monitoring (EM); 2) providing more precise estimates of rockfish catch; 3) reducing waste and incentives to discard rockfish; 4) reducing overall enforcement burden; and 5) promoting more consistent management between State and Federal fisheries. These recommended revisions are described in more detail in the Analysis and the forthcoming proposed rule for Amendments 119/107.

Maximum Commerce Allowance

There is a need to establish a limit or allowance on the sale of rockfish caught as incidental catch that both provides an incentive for vessel operators to retain all rockfish and avoids elevated rates of rockfish incidental catch because rockfish MRAs would not apply under the proposed full retention requirement. These amendments would implement a new fishery management method known as the maximum commerce allowance (MCA). The MCA would be calculated when groundfish and halibut are landed at a processor. The MCA would limit the amount of rockfish allowed to enter commerce through barter, sale, or trade. Rockfish that cannot be sold could be consumed by vessel crew, donated to non-profits, processed into fishmeal, or discarded by the processing plant.

To address concerns raised by processors, the Council recommended allowing rockfish in excess of the MCA to be processed into meal. Allowing rockfish in excess of the MCA to be processed into meal is unlikely to provide any additional financial incentives to target rockfish due to the low value of fishmeal.

Before adopting its preferred alternatives for Amendment 119/107, the Council considered a range of alternatives and options. The Council determined, and NMFS agrees, that the alternative and options selected by the Council will improve estimates of rockfish catch, increase utilization of rockfish incidental catch, reduce overall enforcement burden, reduce regulatory complexity and promote more consistent management of rockfish between the State of Alaska and Federal fisheries.

NMFS is soliciting public comments on proposed Amendments 119/107 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on the proposed rule that would implement Amendments 119/107 following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendments 119/107 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments or the proposed rule will be considered by NMFS in the approval/disapproval decision for Amendments 119/107 and addressed in the response to comments in the final decision. Comments received after the end of the applicable comment period will not be considered in the approval/disapproval decision on Amendments 119/107. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 19, 2019.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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